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10/031,806	11/19/2003	Bruce Lewolt	116948-010100	8650

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EXAMINER
MUSSELMAN, TIMOTHY A

ART UNIT	PAPER NUMBER
3715	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/031,806	LEWOLT, BRUCE
	Examiner	Art Unit
	TIMOTHY MUSSELMAN	3715

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _11/24/2008_.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-6,8-17,19-53,55-66 and 68-106_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-6,8-17, 19-53,55-66 and 68-106_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
    application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail. Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

In response to applicant's communication filed 11/24/2008, claims 1-6, 8-17, 19-53, 55-66, and

68-106, are pending. Claims 7, 18, 54, 67, and 107-108 have been cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of the relevant portion of 35 U.S.C. 103 that forms
the basis for the rejections made in this section of the office action;

> (a)   A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains.

Claims 1-4, 8-9, 16, 19, 22, 37, 48-51, 56-58, 65, 68, 71, 88, and 100-106 are rejected under 35

U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911).

Regarding claims 1, 48, 100, and 105 Griswald discloses a study aid system comprising a

person inputting materials for studying, wherein the material is processed and queries are

generated. See col. 9: 1-10. Griswald discloses wherein these queries are presented to a user,

and wherein further questions are made based upon the user's evaluation of their answers to the

queries. See col. 13: 26-67. Note that the user can exit in such a manner to bring particular

material to the screen if they *determine that they do not know the answer to the questions* (i.e.

they evaluate their answers to the questions). This citation also discloses wherein the user is

queried regarding information that they have a weaker understanding of, and also wherein the

user can select the item for presentation (as per claim 100). Griswald discloses wherein the

questions are presented according to one of a plurality of templates (as per claims 48 and 105).

See col. 23: 34-41. What Griswald does not explicitly disclose, is wherein the person inputting the

material is the same person using the system as a studying aid. However, there is no teaching in

Griswald wherein this does *not* occur, or *cannot* occur, and further, as described in col. 9: 1-10, it

is the system that designates queries according to user presented materials. Thus, the concept of

the person who inputs the materials being the same person who uses the system would be a

minor difference pertaining to the manner in which the system is used, or more particularly, the

difference would relate merely to *who* uses the system. It would have been well within the abilities

of one of ordinary skill in the art to allow for such minor obvious design variations regarding which

particular person(s) provide material to the system and which particular persons utilize the system

as a study aid, particularly since the system generates the questions and answers (i.e. a person

could input material without in depth details regarding questions and answers, and thus could

also reasonably use the system).

Regarding claims 2-4 and 49-51, Griswald discloses wherein the study material comprises

electronic visually based files containing digital text. See col. 19: 55-57.

Regarding claims 8, 37, 56, and 88, Griswald discloses wherein the user/system determines a

general knowledge item for learning present in the designated material and determines a

question for querying the student regarding this item. See col. 9: 1-10.

Regarding claims 9, 57, and 58, Griswald discloses indicating a portion of the designated

material for the question, and a portion for the answer, using said indicated question to create a

query, and storing said query for future use (thus the generated query is pre-processed before a

user sees it). See col. 23: 1-42.

Regarding claims 16 and 65, Griswald further discloses querying said student according to information provided by said student via an evaluation of prior query performance. See col. 13: 55-69.

Regarding claims 19 and 68, Griswald discloses wherein the user evaluates the queries as to difficulty level of the queries. See col. 13: 55-67.

Regarding claims 22 and 71, Griswald discloses designating back-up information complementing the initial designated material and providing greater background for exhibitions/queries presented to the user. See col. 11: 7-29.

Regarding claims 100-104, Griswald discloses associating a unique title with said designated material. See col. 9: 1-10. Note that the retrieval of the selected material from the memory would require unique identification and also numerical priority.

Regarding claim 106, Griswald discloses providing a plurality of learning templates by which new information may be learned, and a user assigning one of said templates to the designated material. See col. 23: 34-41.

Claims 5-6, 20-21, 52-53, and 69-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Stuppy (WO 98/13807).

Regarding claims 5-6 and 52-53, Griswald does not disclose wherein the electronic text is scanned by a scanner. However, this is very common. Consider the computer based training system (CBT) of Stuppy, which discloses this concept on pages 23: 15-16. One of ordinary skill in the art would have been motivated to use scanners in other systems as well, because doing so would not expand on the concept as disclosed by Stuppy, i.e. scanners are for scanning and digitizing text.

Regarding claims 20-21 and 69-70, Griswald discloses wherein the further interaction with the system is based upon the user's responses to the queries (or evaluations thereof) as described above, but not dislcose wherein the system determines a type of learner that the student is and re-queries the student according to this determined type. However, this is a common feature of CBT systems, and is disclosed by Stuppy on page 22: 10-15. It would have been obvious to one of ordinary skill in the art at the time of the invention to include such established features in other systems as well, in order to provide the established improvement of adapting the presented material to a user's preferred learning style.

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with GOOGLE (www.google.com).

Regarding claim 55, Griswald discloses the automatic selection of query material in col. 9: 1-10, but fails to teach of generating the query based on a keyword or phrase. However, the website GOOGLE teaches of solving the problem of selecting items from a large set of material, and teaches of doing so by the use of key word and phrase searching. See the google website at www.google.com. It would have been obvious to one of ordinary skill in the art at the time of the

invention to utilize the key word/phrase techniques of GOOGLE to search through the material in the method of Griswald, in order to provide an easy manner to locate relevant material.

Claims 10-15, 17, 59-64, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Ho et al. (US 6,139,330).

Regarding claims 10-11, 14, 59-60, and 63, Griswald discloses a system that meets all of the limitations as described above with regard to claims 1 and 48, but fails to explicitly teach of indicating a summary question after determining a plurality of questions, and indicating how the summary question relates to the plurality of questions. However, Ho teaches of a computer based educational system that teaches of using summaries. See col. 3: 39-48. It would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize the summary technique of Ho, in the system of Stuppy, so as to improve the product by allowing for review of questions already presented.

Regarding claims 12 and 61, determining the exact number of questions would be an arbitrary design choice well within the abilities of one of ordinary skill in the art.

Regarding claims 13 and 62, Griswald determines wherein the questions are machine defined. See col. 9: 1-10.

Regarding claims 17 and 66, Griswald further discloses prioritization of questions according to the likelihood of being on a specific test. See col. Note that the steps described are iterative.

Thus, the instructional material will always be prioritized according to the test that is to be taken

pertaining to said instructional material. See col. 13: 39-66.

Regarding claims 15 and 64, Griswald further discloses in col. 13: 39-54 wherein the user may

See paragraph specify the number of questions asked.

**Claims 34-36 and 85-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Griswald et al. (US 5,890,911) in combination with Sonnenfeld (US 6,112,049).**

Regarding claims 34-36, and 85-87, Griswald discloses exchanging information over a

computer network as described in col. 20: 1-2, there is no teaching wherein the query can be

shared with a second student and of limiting those with whom the query is shared. However,

Sonnenfeld discloses a CBT that teaches of these features. See col. 5: 48-50. Note that in order

for a test (query set) to have an average, high, and low score, the queries would have to be

shared. Additionally, note that the sharing is limited to the test takers. It would have been obvious

to one of ordinary skill in the art at the time of the invention to use the query sharing method of

Sonnenfeld in the system of Griswald, in order to improve the product in a manner known in the

art as established by at least Sonnenfeld, to maximize efficiency by providing the same

information to students at the same point in a program.

**Claims 23-26 and 72-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Griswald et al. (US 5,890,911) in view of the Science Daily article "Study On Student
Cheating Finds Profs Make a Difference".**

Regarding claims 23-26 and 72-75, Griswald discloses all of the features of parent claims 1 and 48 as described above, including the accumulation of information, but there is no teaching of accumulating multiple student ratings of the material according to a likelihood of being on specific tests [claims 23-26, 72-75]. However, according to the Science Daily article entitled "Study On Student Cheating Finds Profs Make a Difference", students providing advanced knowledge of information that is likely to be on tests is not uncommon. See page 1, about half way down the page. It would have been obvious to one of ordinary skill in the art at the time of the invention to include with the other accumulated data stored in the system of Griswald, student knowledge of the likelihood of questions to appear on particular tests, because doing so is a common practice and the mere automation of a process does not in and of itself render the process patentable.

Claims 27-29, 31, 76-80, and 82 are rejected under 35 U.S.C. as being unpatentable over Griswald et al. (US 5,890,911) in combination with Lotvin (US 5,907,831).

Regarding claims 27-29, 31, 76-80, and 82, Griswald discloses all of the features of parent claims 1 and 48 as described above, but fails to teach of providing entertainment/advertisements being provided subsequent to said query when the query is the final query in a group of queries, or after a *designated* period of time determined by another person. However, Lotvin teaches of an educational computer system in which advertisement is presented to the user. See col. 2: 20-24. Note that the designated time as per claims 77-78 is "as the child uses the system", and said time is selected by the parent (i.e. another person). Note that advertisements are generally entertainment, and thus no distinction will be made between the two in this OA. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the advertising/entertainment aspects of Lotvin in the system of Griswald (anywhere, including after a set of queries) to recuperate operating costs, and to store advertisement data in the user profiles of the students of Stuppy, in order to better target the advertisements so as to recuperate system

operating costs, thus improving the system in a manner already established in the art as taught

by Lotvin.

Claims 30, 32-33, 81, and 83-84 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Griswald et al. (US 5,890,911) in combination with Lotvin (US 5,907,831) and also

Kesel (US 5,822,744).

Regarding claims 30, 32-33, 81, and 83-84, Griswald/Lotvin disclose all of the features of parent

claims 30, 32, 81, and 83 as described above, including the providing of

advertisement/entertainment. However, there is no teaching of rating of said

advertisement/entertainment by the students, said rating indicating appeal of the

advertisement/entertainment as well as products or services offered by said entertainment.

However, Kesel discloses that it is common for systems with advertisement/entertainment to

include rating systems for marketing purposes. See col. 2: 5-15. It would have been obvious to

one of ordinary skill in the art to include the common and well known rating system as described

by Kesel, in the system of Griswald, in order to allow for marketing feedback and targeted

advertisements, in order to increase advertising revenue to recover operating costs of the system,

thus improving the system in a manner already established in the art as taught by Lotvin.

Claims 38-40 and 89-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Griswald et al. (US 5,890,911) in view of Cook et al. (US 5,727,950).

Regarding claims 38-40 and 89-92, Griswald discloses all of the features of parent claims 37

and 88 as described above, but fails to teach of encryption to limit the access to the coursework

to the student. However, Cook teaches of a networked CBT that includes this feature. See col.

22: 61-68. Note that all of the features of claims 39-40 and 91-92 are standard and extremely well known encryption methods and are referred to in the citation. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the encryption of Cook in the system of Griswald, in order to improve the system as is established in the art by protecting the student data.

Claims 41-43 and 93-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Stuppy (WO 98/13807), and Sonnenfeld (US 6,112,049), Lotvin (US 5,907,831), Kesel (US 5,822,744), and the Science Daily article "Study On Student Cheating Finds Profs Make a Difference".

Regarding claims 41 and 93, these claims are a composite of claims 1-3, 6, 9, 17-19, 22-24, 27, and 31-36, with the exception of the limitation of providing a machine generated hint when student requests one. Examiner takes OFFICIAL NOTICE that the providing of hints is old and well known in educational systems, and that it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize hints in the system of Griswald to guide students along a learning path.

Regardaing claims 43 and 95, applicant in directed to the rejection of claim 37.

Regarding claims 42 and 94, Griswald discloses wherein the student can override any preference to study all questions equally. See col. 13: 10-55.

Claims 44-47 and 96-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Griswald et al. (US 5,890,911) in combination with Stuppy (WO 98/13807), and Sonnenfeld

(US 6,112,049), Lotvin (US 5,907,831), Kesel (US 5,822,744), and the Science Daily article

"Study On Student Cheating Finds Profs Make a Difference" and Cook et al. (US

5,727,950).

Regarding claims 44 and 96, applicant is directed to the rejection of claim 38.

Regarding claims 45 and 97, Griswald discloses pre-designed templates that have built in

functions to enhance learning and to help a student study, wherein the material designated to be

learned is placed into the template. See col. 23: 34-41. Griswald further discloses allowing the

student to select which information to keep active in the students memory. See p. 13: 41-68. The

information selected by the student has been selected in order to keep it active in the students

memory, at least for the duration of the educational process, because if it were not, it would not

have been selected. Griswald further discloses querying said student at defined time intervals

selected by the student. See col. 13: 55-68, and note that since the process described here is

iterative, the student is the one who ultimately decides when the next set of queries is received

(e.g. after completion of the previous set). Griswald further discloses archiving information

studied by the student so that it can be represented to the student later. See col. 14: 1-10.

Although Griswald discloses using information from queries to adjust future queries for the

student, there is no teaching wherein the queries include information about questions that were

on a specific test. However, this is an obvious variation of Griswald in view of the Science Daily

article as described with reference to claim 25. Griswald also additionally fails to teach of using

colors to designate the material selected by the student. However, Cook teaches of using colors

to specify various differences in an educational program. See col. 31:60 – col. 32:3. It would have

been obvious to one of ordinary skill in the art at the time of the invention to utilize the coloring of

Cook in the system of Griswald in order to clearly separate different areas of the educational material, because highlighting is extremely well known in the art, and would not produce any unexpected results if implemented in the system of Griswald.

Regarding claims 46 and 98, the creation of a list of questions regarding what questions were on a test (i.e. information students who take the class in the future should learn) and sharing it with other selected students is rejected in the same manner as claims 25-26. The limitation of allowing the students to select what they want to keep active in their memory and time intervals for queries has already been rejected in parent claim 45.

Regarding claims 47 and 99, Griswald discloses prompting the student to try to associate first information with second information that the student learned previously. See col. 13: 39-68. Note that the process described is *remedial* and iterative, which is to say that some of the questions are related to previous questions the student missed, and the asking of these questions is a prompt to remember previously presented material. Griswald further discloses said student selecting key information in a sentence or paragraph selected by the student. See col. 23: 43-53. Griswald does not disclose summary questions, but this is obvious as described in regard to claim 10 above. Griswald further discloses recording, learning, and cataloging information, including when it was delivered and what it was. See col. 14: 15-25. Griswald fails to teach wherein the information consists of jokes or stories. However, Cook teaches of stories and jokes within an educational system. See col. 13: 20-30. It would have been obvious to one with ordinary skill in the art at the time of the invention, to include the entertainment aspects of Cook in the system of Griswald, in order to keep the student from burning out. It is old and well known in the art to play background music while studying, and the inclusion of background music in the system of Griswald would not produce any new or unexpected results over the playing of background

music in any other studying situation, and this would have been a design variation well within the

abilities of one of ordinary skill in the art.

Response to Arguments

Applicant's arguments dated 11/24/2008 have been fully considered. Applicant argues that the

Science Daily article "Study On Student Cheating Finds Profs Make a Difference" does not teach

that it is well known for students to provide advanced knowledge of information likely to be on a

test. Examiner disagrees. It is described half way through the first page wherein an effective

countermeasure to cheating is for professors to use different tests, "*so that student's don't share

the questions and answers with friends in other class sections*". This clearly implies that students

sometimes share questions and answers pertaining to tests. If this did not occur, the

countermeasure of providing different tests would not be required as described in the article.

Further arguments are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to TIMOTHY MUSSELMAN whose telephone number is (571)272-1814. The

examiner can normally be reached on Mon-Thu 6:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system,

see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M./   /XUAN M. THAI/
Examiner of Art Unit 3715   Supervisory Patent Examiner, Art Unit 3715